

VZCZCXRO8664  
RR RUEHCHI RUEHDT RUEHNN  
DE RUEHHM #1083/01 2680925  
ZNR UUUUU ZZH  
R 250925Z SEP 06  
FM AMCONSUL HO CHI MINH CITY  
TO RUEHC/SECSTATE WASHDC 1498  
INFO RUEHHI/AMEMBASSY HANOI 1057  
RUCNASE/ASEAN MEMBER COLLECTIVE  
RUEATRS/DEPT OF TREASURY WASHINGTON DC  
RUCPDOG/USDOC WASHDC 0012  
RUEHHM/AMCONSUL HO CHI MINH CITY 1574

UNCLAS SECTION 01 OF 03 HO CHI MINH CITY 001083

SIPDIS

SENSITIVE  
SIPDIS

E.O. 12958: N/A  
TAGS: [EINV](#) [ETRD](#) [EFIN](#) [ECON](#) [PREL](#) [PGOV](#) [VM](#)  
SUBJECT: VISIT OF SPECIAL REPRESENTATIVE FOR COMMERCIAL AND BUSINESS  
AFFAIRS TO HCMC

REF: HANOI 2314; HO CHI MIN 411

HO CHI MIN 00001083 001.2 OF 003

¶1. (SBU) Summary: During an August 31 to September 1 visit to HCMC, Special Representative for Commercial and Business Affairs, Frank Mermoud focused on Vietnam's preparations for WTO accession, state owned enterprise (SOE) reform and U.S. business advocacy. U.S. financial, industrial and pharmaceutical sector representatives remain optimistic about the Vietnamese commercial environment. However, they expressed concern that Vietnam may interpret its WTO commitments conservatively and noted confusion within the GVN bureaucracy on how to implement new business laws. This could slow foreign investment and economic growth. Members of the American Chamber of Commerce also expressed concern over changes to the U.S. tax code governing foreign earned income, noting that it would impact on American companies' ability to do business overseas. HCMC Government, Law school, SOE officials and members of the HCMC delegation to the National Assembly noted that Vietnam had much more work ahead of it to improve the business climate in Vietnam for foreign and domestic investors. They acknowledged that WTO accession would create stresses as well as opportunities and were looking for assistance in meeting new economic and legal challenges. End Summary.

Discussions with US Business  
-----

¶2. (SBU) During a visit to HCMC August 31 and September 1, Special Representative for Commercial and Business Affairs, Frank Mermoud met with the AmCham Board of Governors, the Intel country representative, and U.S. investors in the financial, industrial, and pharmaceutical sectors. The U.S. representatives noted that Vietnam is more open to foreign investment than ever before. They fretted, however, that there is a lag effect between the passage of new laws and implementation. This delay -- and the lack of technical expertise and transparency in implementation -- creates many headaches. They expect this problem to worsen over the near term as the GVN bureaucracy strives to digest the many changes to the legal code made in the run up to WTO accession.

¶3. (SBU) The U.S. business reps highlighted teething pains in implementation of the Unified Enterprise and Common Investment laws that came into effect on July 1, 2006. Intended to level the playing field between domestic, state owned and foreign companies, confusion abounds within the bureaucracy -- particularly within the Ministry of Planning and Investment -- over several key issues including investment registration procedures and limits on foreign investment in certain sectors. This confusion is slowing down new foreign investment and

business registration. A representative of KPMG expressed concern that the GVN may wait until after WTO accession to release key implementing decrees, leaving the foreign and domestic private sector in limbo until this happens. Representatives of the U.S. pharmaceutical sector noted that WTO commitments which will come into effect in 2009 for the sector will improve their trading and distribution rights however in the meantime they complained that they are not allowed to import their products. The GVN wants to produce locally 60 percent of drugs consumed in Vietnam. In order to engage in trading and distribution, the GVN requires U.S. pharmaceutical companies to establish manufacturing operations to sell drugs locally, which they are not interested in doing (the industry is closing factories around the world). The pharmaceutical representatives are also concerned that Vietnam's legal framework does not provide them effective legal recourse to protect their interests should SOEs copy more popular drugs. They described the pharmaceutical sector as a source of national pride for Vietnam; they noted that almost every province has its own SOE pharmaceutical factory.

14. (SBU) The CitiBank representative said he was concerned about the ABN-AMRO case and the decision of the authorities to criminalize routine business transactions (see reftel for more on the ABN-AMRO dispute.) He noted that the diffusion of responsibility within the GVN between those responsible for policy development and those responsible for enforcement could help explain why the ABN-AMRO case came about. He was hopeful that the industry's ability to access the Prime Minister's Office and the GVN's openness to private sector input may lead to a positive resolution of the crises.

15. (SBU) Insurance and pharmaceutical sector representatives also complained about unfair competition with SOEs. For example regulatory requirements force U.S. insurance providers to work through SOE insurance companies. Foreign pharmaceutical companies must partner with a local Vietnamese company to distribute their products.

HO CHI MIN 00001083 002.2 OF 003

16. (SBU) U.S. businesses also complained about their inability to compete for large public works-sector projects because of tied aid that the Japanese, Koreans and others nations provide Vietnam. Mermoud was sympathetic, but the USG would not play that game. That said, as part of Secretary Rice's Transformational Diplomacy initiative, the State Department is undertaking a holistic review of how the USG allocates its foreign assistance to ensure that the aid support critical foreign policy goals. The business environment is incorporated into those benchmarks. The Special Representative also highlighted the Secretary's Award for Corporate Excellence (ACE) as a means of showcasing and rewarding U.S. companies that are contributing to their host countries Mr. Mermoud also stressed the importance of AmCham and U.S. business using avenues of advocacy already open to them, including the Vietnam Business Forum to express their positions to the GVN. He also encouraged U.S. companies to publicize their best practices and support for the local communities in which they operate as a strategy for boosting their credibility and image with provincial and central government officials.

#### Changes to Section 911 of the U.S. Tax Code

-----

17. (SBU) Many U.S. business representatives expressed concern over recent changes to the U.S. tax code governing exemptions for overseas earnings for U.S. taxpayers. These changes make it economically prohibitive for companies to have U.S. employees overseas. The changes not only hurt U.S. global competitiveness, but also reduce the U.S. "presence" overseas. In Vietnam, U.S. businesspersons work with all level of society, from government officials to factory workers. They are the face of America abroad, the AmCham representatives said. Mr. Mermoud

noted that Under Secretary Karen Hughes and other working on public diplomacy would be interested in AmCham's views and committed to raising the issue back in Washington.

#### Ho Chi Minh City Law School

-----

¶18. (SBU) Ms. Mai Hong Quy, Acting Rector of the HCMC Law School (the alma mater of PM Dung), acknowledged that more needed to be done to prepare the nation for WTO accession. For example, while on many issues, such as intellectual property, Vietnam's laws code may be compliant with WTO standards, questions remain over implementation and clarifying decrees need to be issued. Public awareness of the impact of WTO also is limited. Preparing her students for a post-WTO environment is her number one priority. At least one third of law students are doing their thesis on WTO related topics. The school also is working to reduce lecture and theory-based education and to incorporate practice and case study work. She welcomed the idea of partnering with U.S. companies in Vietnam to develop internship programs for her students, an initiative Mr. Mermoud shared with AmCham. Madame Quy also welcomed expanded cooperation with the USG and U.S. educational institutions to develop and further professionalize the law faculty.

#### Ho Chi Minh City Department of Trade

-----

¶19. (SBU) Pham Hong Ha, Director of the HCMC Department of Trade described to Mr. Mermoud and the Consul General how HCMC is working to become the export transshipment point for the entire southern region of Vietnam by 2015 or 2020. Mermoud noted that the recent approval of the Cai Mep port project, a joint venture between SSA International Holding Ventures of Seattle and Saigon Port of Vietnam to build and operate two of six new container berths for the Saigon Port Authority, is clearly in line with HCMC's development goals. So too is the pending Cai Lan port development project. He hoped that this project would be approved before the President's visit to Vietnam for the APEC Summit in November.

¶10. (SBU) Ha said that in September the Trade Minister will publicize Vietnam's WTO "package." The HCMC Department of Trade already has begun to update its website with information on WTO for the private sector to utilize in its preparations. Ha acknowledged that Vietnam's small and medium enterprises would be challenged by WTO entry, but HCMC plans to support its SMEs through land grants and promotion of industrial zones. He added that Vietnam's SOEs are getting better at functioning without government subsidies.

¶11. (SBU) Responding to the CG's question about an apparent slowdown in new investment registrations, Ha noted that all

HO CHI MIN 00001083 003.2 OF 003

leaders are very cautious when implementing new laws. He said that, nonetheless, Vietnam's economy grew rapidly. Ha conceded that the current business registration process is difficult. The Department of Trade is focused on ways to improve this situation and the commercial environment for U.S. investors generally. The Consul General cautioned that Vietnam should not slow investment and business approvals when international interest is at a peak.

#### HCMC National Assembly Members

-----

¶12. (SBU) Mermoud and the CG also met with Nguyen Thi Nghia and Nguyen Kim Thoa, National Assembly delegates from HCMC. Both are businesswomen serving as General Director of the Saigon Co-Op grocery store chain and the Saigon Cosmetics Corporation respectively. The private sector is looking at WTO accession with fear and anticipation. Ms. Nghia said that larger companies have a more realistic view of opportunities and challenges of WTO accession. Regarding the new Investment and Enterprise laws, both delegates said that the National Assembly

is in the process of making additional clarifications and modifications to the laws.

¶13. (SBU) Nghia and Thoa said that the process of SOE equitization was working well and is a step to making SOEs independent. They noted the importance of the SOEs to the national budget, but acknowledged many are weak and under-performing. They attributed this to an excess of state control hampering SOE management. Equitization would make SOEs more efficient, giving management new flexibility in hiring and firing and developing incentive programs to reward and retain high performing employees. The government support to equitized companies was temporary to assist this restructuring. Mr. Mermoud pressed the representatives on whether this process actually weeds out good from bad companies, or if equitization (and GVN supports) artificially propped up companies that should rightly fail in a competitive marketplace. The delegates said that the complaints about unfair advantage of SOEs are outdated. SOEs are now under stricter consideration for tax incentives. The loans they receive are at commercial rates and the SOEs must put up collateral, just as the private sector does. The National Assembly will shift its attention to SOE monopolies in sectors such as aviation and telecom.

¶14. (U) This cable was cleared by Special Representative